



POLICE DEPARTMENT

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In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Police Officer Albert Lumezi : ORDER
Tax Registry No. 930608 : OF
Military & Extended Leave Desk : DISMISSAL
-----X

Police Officer Albert Lumezi, Tax Registry No. 930608, Shield No. 12148, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2013-9490, as set forth on form P.D. 468-121, dated January 31, 2014, and after a review of the entire record, has been found Guilty as charged of Specification Nos. 1 & 2.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Albert Lumezi from the Police Service of the City of New York.


WILLIAM J. BRATTON
POLICE COMMISSIONER

EFFECTIVE:



POLICE DEPARTMENT

May 28, 2015

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In the Matter of the Charges and Specifications : Case No.
- against - : 2013-9490
Police Officer Albert Lumezi :
Tax Registry No. 930608 :
Military & Extended Leave Desk :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Amy J. Porter
Assistant Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Jessica Brenes, Esq.
Daniel Maurer, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Stuart London, Esq.
Worth, Longworth & London, LLP
111 John Street-Suite 640
New York, New York 10038

To:

HONORABLE WILLIAM J. BRATTON
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT

The above-named member of the Department appeared before me on January 31, February 5, April 16, May 7, August 19, and September 3, 2014; February 10, February 11, February 24, and March 18, 2015, charged with the following:

1. Police Officer Albert Lumezi, assigned to Highway District, on or about and between October 9, 2012, and April 9, 2013, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer without authority or police necessity possessed a controlled substance, to wit: cocaine. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 GENERAL REGULATIONS

2 Police Officer Albert Lumezi, assigned to Highway District, on or about and between October 9, 2012, and April 9, 2013, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer without authority or police necessity ingested a controlled substance, to wit: cocaine. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

The Department was represented by Jessica Brenes and Daniel Maurer, Esqs., Department Advocate's Office, and Respondent was represented by Stuart London, Esq., Worth Longworth & London, LLP.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty of both Specifications.

SUMMARY OF EVIDENCE PRESENTEDBackground

The following facts are undisputed. On April 9, 2013, Respondent reported to the Medical Division for drug screening. He was selected for screening because he had applied for admittance to the Highway District, a specialized unit. Police Officer Althea McLean collected three samples of arm hair. Two of the samples were sent to Psychemedics Corporation (Psychemedics), a drug testing laboratory in California. As per Department policy, the third sample was stored at the Medical Division so that, in the event that the first two samples tested positive, Respondent could send the third sample to a lab of his choosing for independent testing. Psychemedics notified the Department that Respondent's samples tested positive for cocaine. Respondent sent his third sample to Quest Diagnostics (Quest). It also came back positive for cocaine.

Respondent, a 13-year member of the Department and father of seven children, denied ever ingesting cocaine. It has been his lifelong dream to be a police officer. Upon learning of the positive Psychemedics results, he donated urine and head hair samples for analysis. Both tested negative for drugs.

Since being suspended from duty, Respondent has returned to college to finish his bachelor's degree. He has also continued to appear in traffic court for summonses that he issued before his suspension. His traffic court testimony continues to result in guilty dispositions. Sergeant Keith Murphy, the Internal Affairs Bureau investigator assigned to Respondent's case agreed that there was nothing in Respondent's employment history that was consistent with him being a drug user. [Respondent's Exhibit (RX) U shows the traffic court dispositions for

Respondent's court appearances. RX T consists of 24 letters Respondent obtained from people attesting to his good moral character.]

The April 9, 2013 Sample Collection

McLean has been assigned to the Medical Division's Drug Screening Unit since October 2012. She collects from five to eight donors daily. She testified that upon Respondent's arrival at the Medical Division on April 9, 2013, he filled out a Drug Screening Questionnaire [Department's Exhibit (DX) 1], on which he noted any prescription medications he had recently taken. He also signed Custody and Control Forms, [DX 2 and 3] to certify that the samples being collected were his. These forms, on which Respondent was identified by a unique donor identification number, were sent to Psychemedics with his samples.

Once inside the collecting room, McLean cleaned the table and then covered it with a clean sheet of paper. With gloved hands and a new razor, she shaved the hair from Respondent's arm onto the paper and then separated the hair into three samples. Body hair is collected only when head hair is too short, and McLean did not recall why she took hair from Respondent's arm instead of his head. In Respondent's presence, McLean placed each sample in an interior envelope and exterior plastic pouch, both of which were sealed and initialed by Respondent. [DX 4A, B, and C show Respondent's initials on the seals and by certifications confirming again that the samples were his.] The samples were secured in a locker until shipment to the lab.

The Positive Test Results

Thomas Cairns, the senior scientific advisor and deputy lab director at Psychemedics, was deemed an expert in the field of forensic toxicology with an emphasis in hair testing. [DX 7

are licenses and certifications held by Cairns and Psychemedics, including those from New York State. DX 8 is Cairns' curriculum vitae.]

Cairns explained that when cocaine is ingested into the body, it enters the bloodstream. As cocaine-contaminated blood enters the base of a strand of hair, some of the cocaine gets trapped in the follicle. Since hair grows at a predictable rate, it acts as a tape recorder marking the point in time when the cocaine was ingested. Based on its growth rate, a sample of arm hair represents a look back period of six to seven months. Cairns further explained that when cocaine passes through the liver, it is metabolized resulting in the production of the metabolites benzoylecgonine (BE), cocaethylene (CE), and norcocaine. These metabolites also become trapped in the hair structure.

The first test that Psychemedics conducts on a sample is immunoassay (IA). If this analysis finds a presence of cocaine at a concentration at or above the administrative cutoff level, it is considered presumptive positive. Cairns explained that the administrative cutoff level is used to clearly differentiate a drug user from someone who has been subjected to passive or accidental exposure. In presumptive positive cases, another portion of the sample will be aggressively washed to remove external contamination and sent for mass spectrometry (MS). If MS analysis comes back with positive results, the lab will test a second sample for confirmation. Only in cases where both the first and second samples test positive does Psychemedics report a positive finding to the Department.

All three samples collected from Respondent on April 9, 2013 came back from MS analysis with a positive result for cocaine at a concentration of more than three times the administrative cutoff level of 5 nanograms of cocaine per 10 milligrams of hair (5ng/10mg). According to the Psychemedics data package [DX 9], Respondent's first sample had a

concentration of cocaine at 16.3ng/10mg and BE at 1.8ng/10mg. The second sample had a concentration of cocaine at 15.5ng/10mg and BE at 1.7ng/10mg. The Quest data package [DX 6] for Respondent's third sample showed a concentration of cocaine at 15.3ng/10mg and BE at 2.0ng/10mg. According to Cairns, these results represented multiple ingestions of cocaine over the look back period.

FINDINGS AND ANALYSIS

Respondent stands charged with possessing and ingesting cocaine. In his defense, he raised several points to delegitimize the positive test results.

The Highway District Application

Respondent suggested that the positive results could not be accurate because it did not make sense that he would use drugs knowing that a drug test would be necessary for transfer to the Highway District. He applied for the Highway District in July 2012. The first page of the application stated that submitting to drug screening would be a required part of the application process. This requirement was reiterated to him at a January 2013 interview. [RX A is a blank Highway District application. RX N is the application as filled out by Respondent.]

Respondent's attorney also argued that Respondent's weight, his family responsibilities and his record as a police officer did not fit the profile of a drug abuser. Respondent's assertion that he did not use drugs, however, was not supported by the scientific evidence presented.

Arm Hair

Psychemedics trains collectors to take hair samples from the head whenever feasible. Arm hair should be collected only when head hair and all other body hair is unavailable. According to Respondent, he had a full head of hair on the sample collection day.

Respondent never challenged the fact that the samples collected on April 9, 2013 were collected from his person. Nor did he challenge the integrity of the sample collection procedure. Thus, even if McLean's collection of Respondent's samples strayed from normal practice, the fact that body hair was taken instead of head hair did not nullify the test results.

Respondent's Medications

For injuries sustained in an on-duty car accident, Respondent was prescribed [REDACTED] and [REDACTED]. He maintained that these substances can cause a false positive result for cocaine. [RX R is Respondent's patient chart for his line-of-duty injuries.] Upon review of his pharmacy records [DX 5], Respondent testified that he last filled a prescription for [REDACTED] on December 22, 2009. At that time, he received 60 pills of the medication. He took the pills on an as-needed basis. While having a tooth extracted on January 25, 2013, his dentist administered [REDACTED] with [REDACTED]. The dentist also gave him another prescription for [REDACTED] [RX S is a note from the dentist documenting the extraction.]

After introducing these facts, Respondent provided no scientific evidence to support his theory that prescription medications could have caused the positive results.

The Polygraph

John Fitzgerald, who served 30 years in the Nassau County Police Department and is currently employed as a licensed private investigator, has had an interest in polygraph exams since the 1970s. He has conducted over 3,000 exams, and he was deemed an expert in the area of polygraph. [RX K is Fitzgerald's curriculum vitae.]

Fitzgerald gave Respondent a polygraph exam on July 18, 2013. Fitzgerald asked Respondent in the exam if he ever took cocaine or any other illegal substances. Respondent denied ever taking drugs. Based on Respondent's physiological responses, Fitzgerald believed that Respondent was truthful. [RX L are the questions Fitzgerald asked Respondent. DX 14 is the polygraph test results. RX M is Fitzgerald's score sheet for the test.]

Fitzgerald conceded that the interpretation of polygraph testing results is not an exact science, and that most courts reject the admissibility of polygraph examination. For these reasons, the Respondent's polygraph results cannot be dispositive of the issues here. [Court's Exhibits (CX) 3, 3A and B are New York State cases where polygraph tests were deemed unreliable: *Olivares v. Ercole*, F.Supp. 2d 345 (2013); *People v. DeLorenzo*, 45 A.D.3d 1402 (2007); *People v. Weber*, 40 A.D.3d 1267 (2007).]

Respondent's Third Sample

Lieutenant Kelly Milevoj is a supervisor in the drug screening unit. She met Respondent on May 8, 2013, when Respondent came to the Medical Division to have his third sample sent to Quest. Respondent was given the opportunity to inspect the sample and did not express any concern. [DX 11 is an email from Quest instructing the Medical Division on how to package the third sample. RX E is a fax from Quest confirming receipt of the sample.]

On May 16, Milevoj received the results from Quest. The results page [RX B] contained the following disclaimer indicating that the chain of custody was not intact: “Specimen was received without chain of custody and may not have been handled as a legal specimen. Results should be used for medical purposes only and not for any legal or employment evaluative purposes.” A Quest representative told Milevoj that all that was needed to fix the problem was for the Department’s medical review officer to sign a form [RX F]. Though the medical review officer signed the form, Milevoj did not know if the matter was resolved. The medical review officer had nothing to do with the collection or handling of Respondent’s sample, and Milevoj did not know why his signature was needed by the lab.

Randal Clouette, the director of esoteric testing at Quest, oversees the day-to-day operation of the lab. About the disclaimer on the results page, he explained that that type of note is included when there is an omission or “difficulty in handling” a specimen prior to the specimen’s arrival at the lab. In Respondent’s case, it was included because the packet’s seal lacked an identification number. The seal itself was intact, and the chain of custody was maintained throughout the testing process.

Clouette’s testimony demonstrated that any problem with Respondent’s third sample was merely clerical in nature. While the Quest results on Respondent’s third sample were entirely consistent with the Psychedics results on the first two samples, the Court need not rely on the third sample in reaching its findings.

The Negative Follow-Up Tests

Respondent learned on April 19 about the positive test results. The next day, he went to his doctor in search of a medical explanation. Respondent gave a urine sample. It came back

with a negative result for cocaine. [RX O are the urinalysis results.] Respondent met with his attorney the next weekday, April 22. His attorney advised him to submit to another hair test. That same day, he went to Quest and submitted a hair sample. He received notification the next week that the sample had been lost. [RX P(1) is the chain of custody form for the April 22 sample. RX P(2) is the check reimbursing him for the lost sample.] That same day, April 30, he submitted another head hair sample. It came back from Quest with negative results. [RX G is the laboratory data package Quest prepared for the April 30 sample. RX H and I are documents from the collection site regarding the sample. RX Q is the chain of custody form and results page.] Respondent argued that because the follow-up urine and head hair tests were negative, the original positive results could not be trusted as accurate.

Bal Kaul is a medical toxicologist. Based on the qualifications in his curriculum vitae [RX V], he was deemed an expert in forensic toxicology. He testified that the look back period for a urine test for cocaine is typically just 48 or 72 hours. This meant that Respondent could have passed the April 20 urine test so long as he abstained from drug use for the two or three days immediately preceding the sample collection date. The urinalysis results, therefore, had no bearing on the positive Psychomedics results, which were based on a hair sample with a look back period of six to seven months. This determination to disregard the urine sample is supported by the disclaimer on the urinalysis results page stating, "These results are for medical treatment only. Analysis was performed as non-forensic testing."

Douglas Rollins, a retired professor of pharmacology and internal medicine was deemed an expert in urine and hair analysis based on the qualifications in his curriculum vitae [RX J]. He testified that he would have expected the April 30 hair sample to have tested positive, given the high concentrations found in the original samples collected just 21 days earlier.

In contrast, Clouette did not think the April 9 and April 30 samples were inconsistent since the samples underwent completely different testing methodologies. While the April 9 samples underwent MS analysis, only IA analysis was conducted on the April 30 sample.

Another difference was that the April 9 samples were collected from the arm, and the April 30 sample was collected from the head. Because hair from different areas of the body grows at different rates, the samples represent different look back periods. Generally an arm hair sample would have a longer look back period than a head hair sample, which is six or seven months. The standard head hair sample is 3.9 centimeters long, which represents just a 90-day look back period; Cairns pointed out that the April 30 sample may have actually represented even less than a 90 day period since the sample length was unspecified and could have been less than 3.9 centimeters. Thus, the look back periods of the April 9 and April 30 samples could have barely overlapped. This would explain the disparate results.

Cairns also pointed out that another problem with comparing the April 9 and April 30 samples was that a cutoff was applied for the April 30 sample. Thus, the negative result for the April 30 sample did not mean cocaine was not present; it just meant that the concentration did not reach the cutoff. Because of the shorter look back period associated with head hair, Respondent could have brought his concentration of cocaine to below the cutoff level by abstaining from drug use for just a few weeks.

For the above reasons, the negative follow-up tests cannot be directly compared to the positive April 9 results and lack probative value.

External Contamination

While on patrol, Respondent regularly made arrests for Driving While Intoxicated (DWI). For these arrests, he was required to handle currency. He did this barehanded. He also effected or assisted in many narcotics arrests, and he has vouchered crack pipes. Respondent's primary argument is that the Psychomedics washing protocols could not eliminate the risk of environmental contamination causing false positive test results. He called two expert witnesses, Rollins and Kaul, to testify about external contamination.

Rollins

Rollins noted that the Substance Abuse and Mental Health Services Administration (SAMHSA), which regulates drug testing for federal employees, does not use hair samples for standalone workplace drug testing. He believed this is because studies have shown that environmental exposure and actual ingestion cannot be differentiated in hair testing. According to Rollins, a police officer who comes in contact with a habitual cocaine user might test positive for cocaine due to environmental contamination. Rollins explained that cocaine in the environment attaches to the keratin and melanin in the shafts of hair. Keratin is the building block of hair, and melanin is what gives hair its color. Drugs bind to black hair at a higher concentration than lighter hair because it has more melanin. Respondent has black hair. Because drugs in the environment bind to hair very tightly, Rollins disagreed with the Psychomedics claim that its washing procedure can eliminate all environmental cocaine present in hair in every case. For this reason, he did not believe Psychomedics results by themselves should be used to justify terminating people from employment.

To support his opinion, Rollins referred to an article entitled “Hair testing for drugs of abuse: evaluation of external cocaine contamination and risk of false positives,” published in *Forensic Science International* in 2001 [RX D]. According to the article, washing techniques are only effective within the first day after hair is contaminated; the more time that goes by, the more time cocaine penetrates into the matrix of the hair. Rollins also referred to a report produced by the Research Triangle Institute (RTI) in 2009, on which the Federal Bureau of Investigations (FBI) laboratories based its decision to suspend hair testing in all cases except criminal cases involving children. The report stated, “The data sufficiently demonstrates that exterior contamination of hair with cocaine hydrochloride can lead to an innocent individual being accused of cocaine use.”

Rollins testified in a Boston case in which several police officers were reinstated after a judge rejected Cairns’ testimony that Psychemedics testing was foolproof for employment termination purposes. Rollins also testified in a Wisconsin case in which a worker, who had been fired after a positive Psychemedics hair test for cocaine, was reinstated after trial. [RX X is the Boston decision: *Boston Police Dep’t. v. Civil Serv. Comm’n*, Suffolk Superior Court, Civil No. 13-1250-A (Oct. 6, 2014). CX 2 is the original Civil Service Commission decision: *In re Boston Police Department Drug Testing Appeals*, MA Civil Serv. Comm’n, Case Nos. D-01-1409 et al. (Feb. 28, 2013). RX C is the Wisconsin decision: *Brandt v. Scot Forge Co.*, WI Labor & Indust. Review Comm’n, UI Hearing No. 09006150MD (Jul. 18, 2013).]

Cairns responded to Rollins’ arguments. Cairns agreed with the assertion that drugs can attach themselves to melanin in hair. He explained that for two reasons, however, this was not a factor in Psychemedics results. First, external contamination is successfully washed off during the laboratory’s aggressive wash process. Second, melanin is centrifuged out of a sample before

analysis commences. An article [DX 12] entitled “Assessing the Effect of Hair Color on Cocaine Positive Outcomes in a Large Sample: A Logistic Regression on 56,445 Cases Using Hair Analysis,” published in the *Bulletin of the International Association of Forensic Toxicologists* supports Cairns’ conclusion: “Melanin binding is not critical to a material’s retention in hair and may not account for a substantial amount of drug binding. . . . It appears that color most likely does not have an association with a tendency to test cocaine positive.” Cairns’ conclusion is also supported by a second article [DX 13] entitled “Hair Analysis for Cocaine: The Requirement for Effective Wash Procedures and Effects of Drug Concentration and Hair Porosity in Contamination and Decontamination, published in the *Journal of Analytical Toxicology* in 2005: “Porosity, not hair color, determined the rate of penetration of hair by cocaine.”

Cairns testified that the authors of the article, “Hair testing for drugs of abuse” (RX D), inferred that they used the Psychomedics wash procedure, but that was not true. About the RTI report referred to by Rollins, Cairns testified that he did not find the report to be accurate. He and other doctors associated with Psychomedics rebutted the report with a letter to the journal’s editor. As a consequence of the letter, technicians from the FBI lab went to Psychomedics to learn how to properly conduct hair testing, in particular the washing decontamination process. The FBI has now accepted and is currently using the Psychomedics wash procedure. In a subsequent RTI study [DX 10], funded by the Department of Justice and published in 2011, it was found that the Psychomedics wash procedure, in conjunction with the metabolic ratios employed by the lab, produced accurate test results. In fact, of the 12 labs under review in the study, Psychomedics was the only one to get all test results correct.

Cairns called the Wisconsin decision misguided. According to Cairns, the judge in that case relied on old studies, such as a nearly 20-year-old study in which children of cocaine-using parents had positive hair tests. The children's hair was collected from the barbershop floor and the study has since been discounted by the scientific community.

Kaul

Kaul's major concern about using hair testing as a matrix for detection of drug abuse is that in hair testing "you demonstrate more of the parent compound than of the metabolite." Because BE is the marker for actual cocaine ingestion, it concerned Kaul that Respondent's samples tested so much higher for cocaine than for BE. Kaul believed that these numbers possibly meant that there was not actual ingestion of the drug.

According to Kaul, studies have proven the following about environmental contamination: dermal application of 5mg of cocaine results in up to 60ng per milliliter of urinary BE in 48 hours, handling of cocaine-contaminated currency in 13 hours can result in up to 70ng per milliliter of BE, one hour of exposure to 100mg of vaporized cocaine in an unventilated room can result in up to 120ng per milliliter of BE in four to seven hours, and crime lab employees who handle confiscated cocaine can have levels as high as 1,600ng per milliliter of BE, which is ten times higher than the cutoff level for cocaine detection. [RX W is a worksheet produced by Kaul documenting these scenarios on environmental contamination. Court Exhibits (CX) 1A through D are the studies on which the scenarios are based.]

Cairns responded to Kaul's arguments. He agreed that a sizable portion of U.S. currency contains cocaine. The cocaine residue is so slight, however, that one would have to *eat* 10,000 bills to consume one line of cocaine. Similarly, passive inhalation of secondhand smoke would

not take a sample above the cutoff. For involuntary exposure to have caused the concentrations found in Respondent's samples, Respondent would have needed to be locked in a room with half a dozen crack cocaine smokers for three or four hours a week over the course of six months.

The scenarios of environmental contamination discussed by Kaul are irrelevant in this case because they all dealt with urine samples, not hair samples. According to Cairns, due to the cutoff level and washing procedures, none of Kaul's scenarios would result in a positive hair test at Psychemedics. Cairns pointed out that this is a perfect example of why hair testing is more reliable than urine testing.

Cairns described the washing process used at Psychemedics. The first step is a 15-minute wash using isopropanol to remove cosmetic preparations, such as gels, mousses, and hairsprays. This is followed by several rounds of wash with a phosphate buffer. In total, the wash time is three and three-quarter hours. Cairns developed the washing procedure in 2005 or 2006.

Three major peer-reviewed publications have examined the Psychemedics wash procedure and concluded that the procedure is effective at removing external contamination. The first study showed that the washing procedure, in conjunction with the application of the administrative cutoff and a BE ratio, effectively distinguished in all cases externally-contaminated samples from those of actual drug users. The study was the one sponsored by the Department of Justice that was already entered into evidence as DX 10. The second was "Analysis of Extensively Washed Hair from Cocaine Users and Drug Chemists to Establish New Reporting Criteria," published in August 2014 in the *Journal of Analytical Toxicology* [DX 15A]: "The implementation of extensively washing hair and applying a cocaine extended wash kinetics calculation along with the detection of pertinent metabolites can be used to differentiate passive exposure to cocaine from active use." The third was "External Contamination of Hair

with Cocaine: Evaluation of External Cocaine Contamination and Development of Performance-Testing Materials, published in October 2006 in the *Journal of Analytical Toxicology* [DX 15B]. Cairns explained that the article concluded that the Psychomedics wash criteria successfully eliminates false positive results when applied in conjunction with the administrative cutoff and metabolite ratio analysis. This conclusion is consistent with an article entitled “Distinguishing passive contamination from active cocaine consumption: assessing the occupational exposure of narcotics officer to cocaine,” printed in *Forensic Science International* in 1997 [RX Y], which reads, “The study results indicate that cocaine-abstinent persons who are in chronic, casual environmental contact with cocaine are not likely to test hair positive for cocaine using the analysis protocols followed in this project.”

Conclusion

While a handful of judges in other jurisdictions determined that Psychomedics’ results may have been impacted by environmental contamination, those cases are not controlling before this Court. Cairns addressed all concerns raised about the science of hair testing and Respondent was unable to prove that, in his case, environmental contamination was the cause of the positive test results. Through Cairns’ testimony and the positive Psychomedics samples, the Department demonstrated that Respondent used and possessed cocaine.

Based on the foregoing, Respondent is found Guilty of the Specifications against him.

PENALTY


In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on July 1, 2002. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

Respondent has been found Guilty of wrongfully possessing and ingesting cocaine without authority or police necessity. The Department has a strict zero tolerance policy for drug use by its members as evidenced by the following cases where uniformed members of the Department was dismissed for failing a drug test that yielded positive results for cocaine:

Case No. 86122/10 (Jul. 19, 2010); Case No. 2010-3064 (May 8, 2012); Case No. 2010-3156 (Aug. 6, 2012); Case No. 86365/10 (Jan. 17, 2012), confirmed sub nom. *Matter of Jones v. Kelly*, Appellate Division, First Department (2013 NY Slip Op 07262), November 7, 2013.

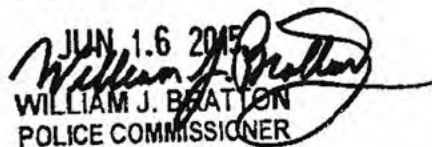
Accordingly, it is recommended that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,

 RM

Amy J. Porter
Assistant Deputy Commissioner – Trials

APPROVED

JUN 16 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ALBERT LUMEZI
TAX REGISTRY NO. 930608
DISCIPLINARY CASE NO. 2013-9490

In 2011 and 2012, Respondent received an overall rating of 4.5 “Extremely Competent/Highly Competent” on his annual performance evaluation. He was rated 4.0 “Highly Competent” in 2010. [REDACTED]
[REDACTED]. Respondent has no prior formal disciplinary record.

For your consideration.



Amy J. Porter
Assistant Deputy Commissioner – Trials